



THE CITY OF NEW YORK
LAW DEPARTMENT

HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

100 CHURCH STREET
NEW YORK, NY 10007

Ramy Louis
Senior Counsel
Phone: (212) 356-2386
FAX: (212) 356-3509
rlouis@law.nyc.gov

September 21, 2022

BY ECF

Honorable Steven Tiscione
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

RE: Jacqueline Silver v. City of New York, et al., 20-CV-3868 (DG) (ST)
Jacqueline Silver v. Detective John Seel, 20-CV-6348 (DG) (ST)

Your Honor:

I am a Senior Counsel in the Office of Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney for defendants City of New York (“City”), and Detectives Michael Galgano and John Steel (collectively “defendants”), in the above referenced matters. Defendants write in accordance with the Court’s Order, dated September 7, 2022, directing defendants to “file a joint status report by September 21, 2022 updating the Court on the status of discovery[.]” *See* Electronic Order dated September 21, 2022. To date, no discovery has taken place because plaintiff continues to refuse to provide defendants with executed releases pursuant to New York Criminal Procedure Law §§ 160.50 and 160.55 in either of the above-referenced matters, notwithstanding multiple Court Orders directing her to do so.¹ Most recently, on September 17, 2022, plaintiff indicated that she is appealing a criminal matter and, if successful, she believes that she will not have to produce executed releases. *See* Plaintiff’s September 17, 2022 Email, annexed hereto as defendants’ Exhibit “A”. Plaintiff’s email clearly shows her continued willful disregard of the Court’s Orders. Accordingly, defendants respectfully (1) renew their motion to dismiss *Silver v. City of New York, et al.*, 20-CV-3868, for failure to prosecute; and (2) request that Your Honor recommend dismissal of *Silver v. City of York, et al.*, 20-CV-6348, for failure to prosecute as well.

By way of background, in the matter of *Silver v. City of New York, et al.*, 20-CV-3868 (DG) (ST), the Court ordered the plaintiff on five occasions to provide this Office with executed releases. *See* Docket Entry Number 18, Electronic Order dated July 12, 2021, Docket Entry Number 25, Docket Entry Number 27, and Electronic Order dated August 26, 2021.² Because plaintiff failed to comply with the Court’s

¹ In fact, defendants have been unable to answer the complaints because of plaintiff’s refusal to provide the executed releases.

² The plaintiff also failed to appear at two court conferences, scheduled on March 18, 2021 and August 6, 2021. *See* Docket Entry Numbers 18 and 27 respectively.

Orders, on September 22, 2021 and November 12, 2021, defendants sought dismissal of the claims based on plaintiff's failure to prosecute the action. *See* Docket Entry Numbers 31 and 33 respectively. The Court Ordered that defendants' September 22, 2021 and November 12, 2021 motions be jointly considered. *See* Electronic Order dated January 4, 2022. On December 3, 2021, the plaintiff filed a Notice of Interlocutory Appeal regarding the Court's denial of plaintiff's Motion for Reconsideration of the Court's referral of the matter to a Magistrate Judge. *See* Docket Entry Number 36. Thereafter, the Court Ordered that defendant's Motion to Dismiss be adjourned *sine die* pending resolution of plaintiff's appeal. *See* Electronic Order dated January 10, 2022. On May 9, 2022, plaintiff's appeal was dismissed. *See* Docket Entry Number 40. Accordingly, defendants respectfully renew their Motion to Dismiss for Failure to Prosecute pursuant to Federal Rules of Civil Procedure ("FRCP") 41(b) and 37.

Similarly, in the matter of *Silver v. City of York, et al.*, 20-CV-6348 (DG) (ST), the Court ordered the plaintiff on four occasions to provide this Office with executed releases. *See* Electronic Order dated May 6, 2021, Docket Entry Number 17, Docket Entry Number 23, and Docket Entry Number 24. Because of plaintiff's failure to comply with any of the Orders, and her failure to appear at two scheduled court conferences on June 11, 2021 and August 6, 2021,³ on August 10, 2021, Your Honor indicated that he would be recommending that the matter be dismissed for failure to prosecute. *See* Docket Entry Number 24. However, on December 3, 2021, the plaintiff filed a Notice of Interlocutory Appeal regarding the Court's denial of plaintiff's Motion for Reconsideration of the Court's referral of the matter to a Magistrate Judge (*see* Docket Entry Number 31). The appeal was dismissed on June 16, 2022 (*see* Docket Entry Number 32). Accordingly, defendant John Seel respectfully requests that Your Honor recommend dismissal of this matter for failure to prosecute pursuant to FRCP 41(b) and 37 as well.

Defendants thank the Court for its time and consideration.

Respectfully submitted,



Ramy Louis
Senior Counsel
Special Federal Litigation Division

cc: **BY FIRST CLASS MAIL**
Jacqueline Silver
Plaintiff *pro se*
P.O. Box 525
28 Maple Place
Manhasset, NY 11030

³ *See* Docket Entry Numbers 17 and 24 respectively.